



Tips and Tidbits
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Question: What is included in a dress code policy? Is there a Government wide policy that dictates acceptable attire for Federal employees? Does Department of the Army have a dress code policy? Is there one for the installation?

Dress and grooming issues include a broad range of concerns, ranging from the wearing of specified uniforms to the adoption of formal dress codes, "dress down days", the wearing of union pins/insignia, and even the right of managers to send employees home for inappropriate dress. In addition, issues such as body piercing and tattoos have also come into play in today's dress codes.

There is no "official" Government wide policy addressing how Federal employees should dress, wear their hair, beards, or what standards of rudimentary hygiene are to be maintained; however, employees are expected to comply with reasonable dress and grooming standards based on comfort, productivity, health, safety, and type of position occupied. For example, laborers and trades employees typically wear clothing appropriate for a warehouse or shop setting. They may be allowed to wear tee-shirts, jeans, rubber soled shoes and/or boots based on safety requirements for that area. Conversely, employees who work in an office setting and interact with customers, as well as various levels of leadership, may be required to wear more formal business attire which may include suits and ties, dresses, blouses, skirts, etc

When contemplating a requirement to dictate dress standards, Management must consider the nature of an employees' job and the location the employees' duties are performed when determining suitable work attire. Any requirement for specific civilian dress and appearance must be based on **clear indications** that the prohibited dress contributes to an unsafe, unhealthy, nonproductive, or a disruptive work environment. There should be a direct nexus between the job requirements and safety, employee interactions, etc and not an arbitrary implementation.

Further, within a workforce covered by a negotiated agreement, the imposition or revision of a dress code, beard policy, etc is considered a change in conditions of employment and is subject to bargaining. When dress or appearance is linked to the means by which an agency accomplishes its mission or maintains security, in accordance with inherent management rights (5 U.S.C. 7106), dress requirements are nonnegotiable. For example, a requirement that police or guards wear uniforms that make them readily identifiable by the public or easily separated from prison inmates is nonnegotiable. Even though nonnegotiable, management *is* obligated to give notice and to bargain upon request over the impact and implementation of the new policy or change to existing policy. In instances where dress is solely a methods or means of performing work, dress code requirements *are* negotiable as directed by Executive Order 12871. These matters fall under what is known as permissive management rights and are covered under are 5 U.S.C. 7106(b)(1).

Most disputes relating to an employee's dress or hygiene are tied to an individual set of

circumstances. That is, a particular individual is dressing inappropriately at work, or failing to attend to rudimentary hygiene, and informal counseling has already been attempted and failed. In situations where a formal dress code is not established, supervisors are encouraged to inform and discuss work attire expectations with employees.

Locally there are some installation organizations that have policies that cover employee dress which stipulate what can be worn. MEDDAC Regulation 670-1, Uniform and Dress, emphasizes the proper wearing of uniforms in a health care area. Due to the care and safety of patients and employees, the Regulation specifically addresses the wearing of hair, fingernails, open-toed shoes, jewelry, and even prohibits the use of perfume which may affect patients with sensitivities.

United States Army Infantry Center Regulation (USAIC) 600-5, Civilian Clothing Standards, describes the standards and requirements of general attire for installation activities in post facilities such as the Commissary, DWMR facilities and the Post Exchange, and applies to military and civilians (employees and guests). The regulation covers prohibitions in post establishments, such as underwear worn as outer wear, "see through" or mesh shirts, hair curlers, shower caps, and flip flops in other than a shower or pool area. The purpose of the policy is to provide a broad sense of what is/is not acceptable and promote a personal appearance standard at Fort Benning.

If an employee arrives in clothing that is deemed inappropriate for the workplace, that employee may be sent home to change into something more appropriate. If the employee continues a pattern of wearing inappropriate clothing to work, the supervisor may elect to take appropriate disciplinary action to correct the behavior. The cited impact might be workplace disruption, or harm to the image of the agency or the Government before outsiders. In some cases, health concerns are relevant.

With minor exceptions, the Merit Systems Protection Board (MSPB) case law on an employee's responsibility to obey an order, including one related to appearance, is clear. An often-cited case on insubordination is *Gragg v. Air Force*, 13 M.S.P.R. 296 (1982), which concerned an employee's refusal to shave his beard as ordered because he thought the order violated his labor contract. The Board found he should have obeyed the order, even though he thought it was improper, but found the removal too severe a penalty, in light of the employee's legitimate concerns about the deference due the negotiated agreement. Mr. Gragg's appeal to the Federal Circuit was dismissed.

For additional information or assistance on workplace attire issues, please contact your servicing MER Specialist.

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